

General Information Letter: Computation of income subject to double taxation when taxpayer is a part-year resident.

May 5, 1999

Dear:

This is in response to your letter received November 28, 1998 in which you request a Private Letter Ruling. I apologize for the delay in this response but the Department has been very busy these last few months. Department of Revenue ("Department") regulations require that the Department issue only two types of letter rulings, Private Letter Rulings ("PLRs") and General Information Letters ("GILs"). PLRs are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. GILs do not constitute statements of agency policy that apply, interpret or prescribe the tax laws and are not binding on the Department. For your general information we have enclosed a copy of 2 Ill. Adm. Code Part 1200 regarding rulings and other information issued by the Department.

Although you have not specifically requested either type of ruling, the nature of your question and the information provided require that we respond only with a GIL. As you have been working with Sheri Hoff and Carole Leathers, Department regulations prevent us from issuing you a Private Letter Ruling.

In your letter you stated:

In the year 1997 I moved from the state of Virginia to the state of Illinois. At the end of the tax year I filed a part year return in both states. A portion of the farm income was included in the state of Virginia and the total farm income was included in the Illinois return. The farm is located in Illinois.

I requested a credit from Illinois for the duplicate income by filing Schedule CR and entered the amount on line 19 of form IL-1040. Due to an error, the Illinois Revenue Department picked it up as line 20 and disallowed the credit.

I have been in contact with Carole Leathers and Sheri Hoff of the Illinois Department of Revenue and there is confusion on how the Schedule CR should be completed. It is my belief that line 15 on the Virginia 760PY should be used in part (b) of the Column C calculation. Sheri Hoff used line 32 in her original adjusted calculation but upon questioning her she is not sure which was intended to be used on a prorated return.

For your convenience enclosed are the copies of:

1997 760PY Virginia complete return
1997 1040 Federal front page
1997 Schedule CR front and back
 (front was filed showing line 2a as \$370.00)
ITR-76 (299.65 was paid 9/11/98)
TA 2735090 check received \$108.08

It would be very much appreciated if your department could give the correct interpretation of Schedule CR Column C(b) and the correct refund due to me.

DISCUSSION

The intent of the Form CR is to determine the credit you are allowed for taxes paid to Virginia on income that was also taxed by the State of Illinois. In your situation it is a question of what portion of the Virginia tax is attributable to the farm income that was taxed by both Illinois and Virginia and what portion was attributable to other income that was not taxed by Illinois. The calculations you made were based upon using the Virginia Taxable income figure which was arrived at by subtracting certain deductions such as the exemption and itemized deductions from the Virginia adjusted gross income which are not allowed by Illinois. However, to do so would be to overstate the actual amount of tax on the income which was double-taxed. That is, the deductions from Virginia adjusted gross income are not all attributable to the farm income. To allow the full deductions would be to attribute them all to the farm income that was double-taxed and this would not properly reflect the amount of tax paid on that income. Accordingly, the Virginia adjusted gross income figure should be used when computing the prorated tax for purposes of the schedule CR. I have attached a proposed schedule CR which the Department believes is correct. Your account will therefore be adjusted and the Department will bill you for any erroneous refund. Again, I apologize for the delay in this response.

I hope this has been helpful, If you have any questions please feel free to contact me at the address above.

Very Truly Yours,

Charles Matoesian
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Income Tax